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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,698	01/22/2001	Alan W. H. Grant	48971-023 (AWGK-001)	1729
53961	7590	03/22/2006	EXAMINER	
FALKOWSKI PLLC			THAI, CANG G	
P.O. BOX 650			ART UNIT	
NOVI, MI 48376-0650			PAPER NUMBER	

3629

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Response to Amendment*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1, 3-4 and 9-21 are rejected under 35 U.S.C. 101 because for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. "Usefulness" may be evidenced by, but not limited to, a specific utility of the claimed invention. "Concreteness" may be evidenced by, but not limited to, repeatability and/or implementation without undue experimentation. "Tangibility" may be evidenced by, but not limited to, a real or actual effect.

In the present case, identifying a number of exchange elements which are offered to the constituent population by the associating a cost to the entity with each of exchange elements, identifying a number of behaviors of constituent population, identifying a value exchange gap with at least one constituent by receiving an incremental valuation from at least one constituent that relates to at least one behavior and receiving feedback from at least one constituent that reduces the value exchange gap that for the constituent providing the received feedback by adding an exchange element between at least one constituent and the entity are subjective. Thus, because the identifying a number of exchange elements, behaviors and others are subjective, for

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a single situation, there could be different results based on the subjective determination of the user. Therefore, the applicant's invention is not capable of providing concrete results as required by 35 U.S.C. 101 since it would be difficult for a person to repeat the analysis and determination of another based on the subjective subject matter without undue experimentation.

Furthermore, the claimed invention is not supported by either a credible asserted utility or a well-established utility. It is unclear how the specific utility of the claimed invention as described in the disclosure of this application would be useful or tangible to one in the industry. It is unclear how the identifying a number of exchange elements which are offered to the constituent population by the associating a cost to the entity with each of exchange elements, identifying a number of behaviors of constituent population, identifying a value exchange gap with at least one constituent by receiving an incremental valuation from at least one constituent that relates to at least one behavior and receiving feedback from at least one constituent that reduces the value exchange gap that for the constituent providing the received feedback by adding an exchange element between at least one constituent and the entity, i.e., what does the identifying a number of exchange elements which are offered to the constituent population means to a person in the industry, identifying a number of behaviors of constituent population, and others, especially in view of the fact that any comparison is made by comparing the exchange elements and number of behaviors with a predetermined threshold value which is not an industry standard value or a mathematically derived standard but rather an exchange element chosen by the

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constituent population. For example, an academic test score of 95 is considered an A unless specifically defined otherwise. What does identifying a number of exchange elements which are offered to the constituent population means to a person in the industry, identifying a number of behaviors of constituent population, and others is derived by this invention mean and to whom does it have a meaning. Is there a threshold value that has a real world meaning?

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 4 & 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear on the storing mindset data? Is it a human that performs the input?

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I. U.S. Patent:

- 1) U.S. Patent No. 6,092,047 (HYMAN ET AL) is cited to teach apparatus and method of composing a plan of flexible benefits,
- 2) U.S. Patent No. 5,802,500 (RYAN ET AL) is cited to teach system and method for computing a financial projection of a prefunding program for other postretirement employee benefits under FASB statement 106,

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- 3) U.S. Patent No. 6,757,660 (CANADA ET AL) is cited to teach method for analyzing information to provide an objective assessment of a predefined subject,
- 4) U.S. Patent No. 6,944,597 (CALLEN ET AL) is cited to teach providing termination benefits for employees, and
- 5) U.S. Patent No. 6,735,569 (WIZIG) is cited to teach method and system for providing a user-selected healthcare services package and healthcare services panel customized based on the user's selections.

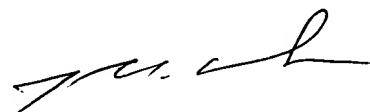
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cang (James) G. Thai whose telephone number is (571) 272-6499. The examiner can normally be reached on 6:30 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CGT  
03/14/2006



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